

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY and
GRS JEWELERS, INC.,

Defendants.

CIVIL ACTION NO. 04 12258-JLT

PLAINTIFF'S CONCISE STATEMENT OF DISPUTED FACTS

Plaintiff Hearts On Fire Company, LLC ("HOF") submits this concise statement of disputed facts as to which there exists a genuine issue to be tried.

Response to Defendant's Statement of Alleged Undisputed Facts

1. Undisputed.
2. Undisputed.
3. Undisputed.
4. Undisputed.
5. Undisputed that HOF sent a letter to The Jewelry Source on July 22, 2004 and that The Jewelry Source agreed to cease using the phrase "the world's most perfectly cut diamond." However, HOF disputes that the letter "threatened" The Jewelry Source with litigation.
6. Undisputed.
7. Undisputed.

Facts To Which There Exists a Genuine Issue To Be Tried

8. That EightStar encouraged, authorized or directed EightStar retailers to use HOF's trademarks unlawfully to promote EightStar's merchandise. See Affidavit of Glen Rothman and Exhibits C-F attached thereto, Affidavit of Mark D. Robins and Exhibit A attached thereto, and the Affidavit of Jessica W. Manchester, Exhibits A, E, F and H thereto, for materials supporting the existence of this fact.

HEARTS ON FIRE COMPANY, LLC

By its attorneys,

/s/ Jessica W. Manchester

Robert P. Sherman (BBO #548540)

Jessica W. Manchester (BBO #660966)

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Dated: March 31, 2006

CERTIFICATE OF SERVICE

I, Jessica W. Manchester, hereby certify that a true copy of the above-document was electronically filed this 31st day of March 2006.

/s/ Jessica W. Manchester

Jessica W. Manchester